

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866**

March 7, 2001

Joel A. Miele, Sr., P.E.
Commissioner
New York City Department of Environmental Protection
Executive Offices
59-17 Junction Blvd., 19th Floor
Corona, New York 11368-5107

Dear Mr. Miele:

We are in receipt of your letter of December 28, 2000 in which you seek modification of Filtration Avoidance Determination (FAD) requirements relating to the design of filtration facilities for New York City's Catskill/Delaware water supply. Your request for partial relief from FAD condition 203c- I contains a number of positive elements which we are currently reviewing in detail. There are, however, several issues described below on which we require clarification and additional information before further contemplating relief.

One of the major concerns expressed in EPA's FAD Mid-course Review (May 2000) was the pace of the Wastewater Treatment Plant (WWTP) Upgrade Program, which was failing further and further behind schedule. In response to EPA's report the City submitted a "Fast Track Action Plan" in August 2000. This plan includes a schedule showing the number of facilities which will have completed each design/construction milestone on a quarter-by-quarter basis. In our meeting of August 29, 2000, you stated your commitment to this plan and expressed great confidence that the City would meet the schedule. To further evaluate the City's status in meeting this schedule, we request that, for all non City-owned WWTPs in the Catskill/Delaware system, NYCDEP augment the schedule by specifying which facilities will meet each milestone, by quarter. This additional information must be consistent with the August 2000 Fast Track Action Plan and show that ninety percent of waste flow will be addressed ("functional completion") by 2nd quarter 2002, and all remaining waste flow will be addressed by 1st quarter 2003. Milestones which require facility-specific information include: Preliminary Upgrade Plan approval, Final Upgrade Plan approval, begin construction, and functional completion. We request NYCDEP's acknowledgment that relief would be conditioned upon the City following the schedule in the August 2000 Action Plan and the more specific facility-by facility schedule to be submitted in response to this letter, and that failure to meet that schedule would trigger the reinstitution of the filtration plant design "track."

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Another program that the City proposes in its December 28, 2000 letter is a commitment to complete a feasibility study on the use of ultraviolet (UV) disinfection to treat Catskill/Delaware water and, if feasible, to design and construct a UV treatment facility. Your letter included a schedule for this program. As a condition of relief, we request that NYCDEP clarify that the determination to proceed with project design and construction will be made by EPA in consultation with the New York State Department of Health (NYSDOH) and will be based on the findings of the City's Feasibility Study Report and other relevant data. It is our expectation that design and construction will proceed unless EPA, in consultation with NYSDOH, determines that UV is not feasible for the Catskill/Delaware system or that UV will not be sufficient to meet the goals or requirements of the National Primary Drinking Water Regulations (pending or final). While EPA, at the City's request, would be willing to discuss with the City any issues related to treatment technologies that may have a bearing on the UV project, EPA, in consultation with NYSDOH, must be solely responsible for making the determination to proceed with the construction of UV disinfection facilities.

Please note that any EPA approval of the City's partial relief request would only come after a 30-day public comment period during which we would solicit input from watershed stakeholders. An approved package would become a modification to the current FAD. Any approval would also include a requirement that the City update the preliminary design for Catskill / Delaware filtration facilities on a yearly basis.

I look forward to your response on the above issues. Please feel free to contact me if you would like to discuss this matter further.

Sincerely,

William J. Muszynski P.E.
Acting Regional Administrator

cc: R. Tramontano, NYSDOH
N.G. Kaul, NYSDEC
S. Allen, NYSDEC